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Opinion

NEW HAMPSHIRE LAW LIBRARY

November 26, 1958

OCT 01 1998

CONCORD, N.H.

Mrs. Edna Elwell  
Secretary  
Teachers' Retirement System  
State House Annex

Dear Mrs. Elwell:

This is in response to your letter of November 25, 1958 regarding Thomas P. Hurst.

Mr. Hurst who has been a teacher since 1946 has recently filed an application for disability retirement benefits with the Principal of Brewster Academy. When Mr. Hurst became a member of the Teachers' Retirement System at its date of establishment, July 1, 1950, he indicated an interest in receiving information concerning the procedure to follow to obtain service credit for the period extending from July 1, 1945 to July 1, 1950. Detailed information as to the cost of purchasing service credit for this period was furnished to him together with an application. He was advised that under the law the application was required to be filed with the Teachers' Retirement System prior to July 1, 1951. The application was not returned. On June 1, 1951 a statement was sent to Mr. Hurst showing the monthly installments which he would be required to pay in order to purchase prior service credit. This statement was immediately returned by Mr. Hurst with the following notation: "I do not wish to purchase credit for 1946-1950." You inquire as to whether Mr. Hurst can be deemed to have elected to purchase service credit for the specified period such as to entitle him to disability retirement benefits.

We answer in the negative.

In order to be eligible for disability retirement benefits a member of the retirement system must have ten or more years of creditable service. (RSA 192:9). Under RSA 192:12, Par. I(e)

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Mrs. Edna Elwell  
Secretary  
Teachers' Retirement System

teachers entering the retirement system at the date of establishment were entitled to purchase prior service credit for the period extending from July 1, 1945 to July 1, 1950 "by filing written notice with the board of trustees within one year." In our opinion Mr. Hurst's actions as outlined in your letter cannot be construed as an election to purchase prior service credit. He merely requested information concerning the procedure to be followed in this respect. He neglected to return the application to your office and subsequently he clearly indicated that he did not wish to purchase prior service credit.

Very truly yours,

Elmer T. Bourque  
Assistant Attorney General

ETB/g